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Rules, Regulations, Orders

TITLE 17—COMMODITY AND SECURITIES EXCHANGES SECURITIES AND EXCHANGE COMMISSION

SECURITIES ACT OF 1933

ADOPTION OF RULE S-142

The Securities and Exchange Commission, acting pursuant to authority conferred upon it by the Securities Act of 1933, as amended, particularly Section 19 (a) thereof, and deeming such action necessary to carry out the provisions of the Act and necessary and appropriate in the public interest and for the protection of investors, hereby adopts the following rule:

Sec. 5.S-142 (Rule S-142) *Definition of "Participates" and "Participation," as Used in Section 2 (11), in Relation to Certain Transactions.* (a) The terms "participates" and "participation" in Section 2 (11) shall not include the interest of a person (1) who is not in privity of contract with the issuer nor directly or indirectly controlling, controlled by, or under common control with, the issuer, and (2) who has no association with any principal underwriter of the securities being distributed, and (3) whose function in the distribution is confined to an undertaking to purchase all or some specified proportion of the securities remaining unsold after the lapse of some specified period of time, and (4) who purchases such securities for investment and not with a view to distribution.

(b) As used in this rule—

(1) The term "issuer" shall have the meaning defined in Section 2 (4)¹ and in the last sentence of Section 2 (11).²

(2) The term "association" shall include a relationship between two persons under which one—

¹ C. 38, sec. 2, 48 Stat. 74; c. 404, sec. 201, 48 Stat. 905; 15 U. S. C. 77b.

² C. 38, sec. 2, 48 Stat. 74; c. 404, sec. 201, 48 Stat. 905; 15 U. S. C. 77b.

(A) Is directly or indirectly controlling, controlled by, or under common control with, the other, or

(B) Has, in common with the other, one or more partners, officers, directors, trustees, branch managers, or other persons occupying a similar status or performing similar functions, or

(C) Has a participation, direct or indirect, in the profits of the other, or has a financial stake, by debtor-creditor relationship, stock ownership, contract or otherwise, in the income or business of the other.

(3) The term "principal underwriter" shall have the meaning defined in Rule S-455 (Sec. 5.S-455).

(C. 38, sec. 19, 48 Stat. 85; c. 404, sec. 209, 48 Stat. 908; 15 U. S. C. 77s) [Gen. Rules and Regs., Rule S-142, effective December 14, 1938]

By the Commission.

[SEAL] FRANCIS P. BRASSOR,
Secretary.

[F. R. Doc. 38-3767; Filed, December 15, 1938; 11:36 a. m.]

TITLE 25—INDIANS OFFICE OF INDIAN AFFAIRS

LAND ACQUIRED FOR USE OF ST. CROIX CHIPPEWA INDIANS PROCLAIMED AN INDIAN RESERVATION

NOVEMBER 28, 1938.

By virtue of authority contained in Section 7 of the Act of June 18, 1934 (48 Stat. L., 984), the lands described below, acquired by purchase for the use and benefit of the St. Croix Chippewa Indians of one-half blood or more who may be designated by the Secretary of the Interior, until such time as they organize under Section 16 of the Indian Reorganization Act, and then for the benefit of such organization, as authorized in accordance with the provisions of Section 5 of that Act are hereby proclaimed to be an Indian Reservation:

NW $\frac{1}{4}$ NE $\frac{1}{4}$, NW $\frac{1}{4}$ SE $\frac{1}{4}$ and Government Lots 1, 2, 3, 7, 10, 11 and 12, Section 18,

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Township 35 North, Range 15; Government Lots 1 and 2, Section 12, Township 35 North, Range 16; Government Lots 1, 2, 3, 4, 5, 6, 7 and 8, Section 3, Township 38 North, Range 15; Government Lots 2, 3, 4, 5, 6 and 7, Section 34, Township 39 North, Range 15; Government Lots 4 and 5, Section 22, Township 41 North, Range 16; and, N $\frac{1}{2}$ NW $\frac{1}{4}$ Section 27, Township 41 North, Range 16, all West of the 4th P. M.

All of said lands being within Burnett and Polk Counties, Wisconsin, containing a total of 996.96 acres, more or less.

HARRY SLATTERY,
Acting Secretary of the Interior.

[F. R. Doc. 38-3763; Filed, December 15, 1938; 10:01 a. m.]

TITLE 38—PENSIONS, BONUSES, AND VETERANS' RELIEF

VETERANS' ADMINISTRATION

REVISION OF REGULATIONS

RELEASE OF INFORMATION CONCERNING CLAIMANTS AND BENEFICIARIES¹

SEC. 1.311 (d) *Addresses.* (1) When an address or other information is requested in a claim in which the veteran served prior to April 21, 1898, it will be

furnished free to any department or agency of the United States Government or of a State or municipal Government, to a Member of Congress, a social welfare organization, or any other agency or person interested in the welfare of the claimant. In any other case, if not prejudicial to the interests of the United States or of any living person, charge therefor will be made in conformity with Sec. 1.328.

(2) When an address is requested that may not be furnished under Secs. 1.310-1.331, because the veteran served after April 20, 1898, the person making the request will be informed that a letter enclosed in an unsealed envelope, bearing sufficient postage, without return address, with the name of the addressee thereon, will be forwarded by the Veterans Administration, but this procedure will be followed only when it does not interfere unduly with the functions of the service or division concerned. In no event will letters be forwarded to aid in the collection of debts. (December 15, 1938) (48 Stat. 9; 38 U. S. C. 707)

SEC. 1.312 *Disclosure to Claimants; and concerning payments.* Disclosures of information from the files, records, reports, and other papers and documents pertaining to claims filed with the Veterans' Administration shall be made by the regional office or facility having possession of the case file:

(a) (1) To a veteran or his duly authorized representative, as to matters concerning himself alone when such disclosure would not be injurious to the physical or mental health of the veteran. If the veteran be deceased, matters concerning him may be disclosed to his widow, children, or next of kin if such disclosure will not be injurious to the physical or mental health of the person in whose behalf information is sought or cause repugnance or resentment toward the decedent.

(2) To a widow, child or dependent parent or the duly authorized representative of any of these persons, as to matters concerning such person alone when such disclosures will not be injurious to the physical or mental health of the person to whom the inquiry relates. If the person concerning whom the information is sought is deceased, matters concerning such person may be disclosed to the next of kin if the disclosures will not be injurious to the physical or mental health of the person in whose behalf the information is sought or cause repugnance or resentment toward the decedent.

(b) The amount of pension or compensation of any beneficiary shall be made known to any person who applies for such information. (December 15, 1938) (48 Stat. 9; 38 U. S. C. 707)

SEC. 1.316 *Disclosure prejudicial to mental or physical health of claimant.* Determination of the question when disclosure of information from the files, records and reports, will be prejudicial to the mental or physical health of a claimant, beneficiary or other person in

whose behalf information is sought will be made by the medical director, central office; or the chief medical officer in the regional office or facility having regional office activities; or the manager in other facilities. (December 15, 1938) (48 Stat. 9; 38 U. S. C. 707)

SEC. 1.320 (b) *Inspection of records or furnishing information therefrom when service was prior to April 21, 1898.* Any person may inspect the records and information may be given therefrom in cases of veterans who served prior to but not on or after April 21, 1898, when such inspection or the furnishing of such information, is not prejudicial to the interests of the Government or, so far as may be apparent, to the interests of any living person. The examination of records or other documents relating to claims for pension or bounty land or the furnishing of information therefrom shall not extend to confidential communications, including instructions regarding, or requests for special or field examinations, summaries and recommendations of inspectors or field examiners, reports relating to criminal charges and investigations, or to evidence obtained in cases involving crimes, forfeiture, or misconduct; nor shall it extend to reports from the Government departments, bureaus, or other agencies, except by permission of the head of the service concerned, or his designate. No person will be permitted to take copies from such reports. Inspection of reports of official physical or mental examinations will not be permitted in cases wherein payments are being made and no claim is pending. (December 15, 1938) (48 Stat. 9; 38 U. S. C. 707)

SEC. 1.322 *Information to Commanding Officers of State Soldiers Homes.* When a request is received in a regional office or Veterans Administration facility, from the commanding officer of a State soldiers home, for information, other than information relative to the character of the discharge from the facility, concerning a veteran formerly domiciled in a Veterans Administration facility, who served subsequent to April 20, 1898, the provisions of Sec. 1.310 are applicable, and no disclosure will be made from the files, records, reports, and other papers and documents pertaining to any claim, whether pending or adjudicated, unless the request is accompanied by the authorization outlined in Sec. 1.312 (a). However, managers of regional offices or Veterans Administration facilities upon receipt of a request from the commanding officer of a State soldiers home, for the character of the discharge of a veteran from a Veterans Administration facility, will comply with the request, restricting the information disclosed solely to the character of the veteran's discharge from the facility. Such information will be disclosed only upon receipt of a specific request therefor from the commanding officer of a State soldiers home. (December 15, 1938) (48 Stat. 9; 38 U. S. C. 707)

¹ 3 F. R. 795 DI

Sec. 1.328 *Schedule of fees:*

Post office addresses furnished under	
Sec. 1.311 (d) each	\$0.25
Written copies, per 100 words	.25
Photostat copies, per sheet	.25
Certifications, each	.25

Information furnished under Sec. 1.323 shall be supplied without charge. (December 15, 1938) (48 Stat. 9; 38 U. S. C. 707)

[SEAL]

FRANK T. HINES,
Administrator.[F. R. Doc. 38-3768; Filed, December 15, 1938;
11:58 a. m.]

REVISION OF REGULATIONS

EFFECTIVE DATES OF INCREASE OF DEATH
PENSION OR COMPENSATION

Sec. 2.2579 *Increase on account of posthumous child.* For the purposes of all laws granting compensation or pension to widows or children of veterans of any war or of the peace-time establishments, an increased rate based on the birth of a posthumous child, shall be made effective as of the date of birth of such child upon receipt of proof of birth in conformity with the requirements of Sec. 2.1046, provided mention of the expected child is made in the application for death benefits in the claim filed by the widow or the other children. (December 15, 1938) (43 Stat. 608; 46 Stat. 1016; 48 Stat. 9; 38 U. S. C. 2, 11, 11a, 426, 707)

[SEAL]

FRANK T. HINES,
Administrator.[F. R. Doc. 38-3772; Filed, December 15, 1938;
11:59 a. m.]

REVISION OF REGULATIONS

ACCRUED AMOUNTS DUE AND UNPAID AT
DEATH

Sec. 2.2660 *Accrued pension: Act of March 2, 1895.* Pension accrued under the laws relating to service prior to April 21, 1898, Special Acts, and laws reenacted by Section 30, Title III, Public No. 141, 73d Congress (Act of March 28, 1934), Public No. 269, 74th Congress (Act of August 13, 1935), and Public No. 541, 75th Congress (Act of May 24, 1938) shall be paid as provided in the Act of March 2, 1895 (28 Stat. 964). (December 15, 1938)

[SEAL]

FRANK T. HINES,
Administrator.[F. R. Doc. 38-3771; Filed, December 15, 1938;
11:59 a. m.]

REVISION OF REGULATIONS

BURIAL AND FUNERAL EXPENSES AND TRANSPORTATION OF BODIES OF VETERANS
Payment of Burial Expenses of Deceased War Veterans

Sec. 2.2692 (A) *Death prior to March 20, 1933.* Where a veteran of any war

who was not dishonorably discharged died prior to March 20, 1933, under conditions which warrant the payment of or reimbursement for, burial, funeral and transportation expenses, payment or reimbursement may be made in accordance with the laws in effect prior to March 20, 1933, if claim therefor was filed within three months from June 16, 1933, the date of enactment of Public No. 78, 73d Congress.

(B) *Death on or after March 20, 1933.* Where an honorably discharged or retired veteran of any war dies after discharge, and on or after March 20, 1933, amounts shall be allowed for burial and funeral expenses and transportation of the body (including preparation of the body) to the place of burial, as follows: Where death occurred on or after March 31, 1933 and before January 19, 1934 a sum not exceeding \$75; on or after January 19, 1934, a sum not exceeding \$100. If death occurred on or after March 28, 1934, an honorable discharge is not essential as to a war veteran in receipt of pension or compensation.

(C) *Limitation as to time for filing and perfecting claim.* No allowance may be made for direct payment of or reimbursement for burial, funeral and transportation expenses, where burial occurred on or after March 31, 1933, unless there is filed within one year subsequent to the date of permanent burial or cremation of the veteran a specific claim for the benefit by the person entitled or by some person acting for him. In the event the claimant's application is not complete at the time of original submission, the claimant and the person acting for him, if any, will be notified of the evidence necessary to complete the application and if such evidence is not received within one year from the date of the request therefor no allowance may be paid. (December 15, 1938) (48 Stat. 11, 309; 38 U. S. C. 717, 718, 722)

Definition of "Veteran of Any War"

Sec. 2.2694 (A) *Persons included.* The term "veteran of any war" for the purpose of adjudicating claims for direct payment of or reimbursement for burial, funeral and transportation expenses incurred in behalf of deceased veterans where death was on or subsequent to March 20, 1933, will include: (1) Civil War, any honorably discharged member of the active military or naval service of the United States who served during the Civil War subsequent to April 11, 1861, and prior to May 27, 1865, including those persons who served as members of State organizations participating in the Civil War for whose services the State has been reimbursed by the United States Government. Nothing herein shall be construed to exclude from the definition any person who was receiving pension as a Civil War veteran under the Civil War service pension laws or who was not entitled to pension un-

*1 F. R. 1695.

der such Civil War pension service laws solely because of length of service or as to whom any special act of Congress has been enacted which provides that such person shall be considered as having rendered military service during the Civil War; (2) Indian Wars, any veteran of any Indian War, as formerly contemplated by the provisions of Section 201 (1) of the World War Veterans Act, 1924, as amended, and regulations, precedents, and instructions issued pursuant thereto, or a person who at time of his death was receiving a pension in accordance with the provisions of the laws governing the payment of a pension as a veteran of an Indian War; (3) Spanish-American War, any honorably discharged officer or enlisted man who was employed in the active military or naval service of the United States on or after April 21, 1898 and before August 13, 1898, including those women who served as army nurses under contract during this period and including any honorably discharged person who died on or after March 19, 1935, and who served in the military or naval service of the United States between August 13, 1898 and July 4, 1902, both dates inclusive, who left the continental United States under orders for military or naval service in Guam, Cuba, or Puerto Rico, between such dates inclusive; (4) Philippine Insurrection, any honorably discharged officer or enlisted man employed in the active military or naval service of the United States including those women who served as army nurses under contracts, who actually participated in the Philippine Insurrection on or after August 13, 1898 and before July 5, 1902, provided, however, if the person was serving in the United States military forces engaged in the hostilities in the Moro Province the ending date shall be July 15, 1903; (5) Boxer Rebellion, any honorably discharged officer or enlisted man, including those women who served as army nurses under contracts, employed in actual participation in the Boxer Rebellion on or after June 20, 1900 and before May 13, 1901; (6) World War, any honorably discharged officer, enlisted man, member of the Army Nurse Corps (female), Navy Nurse Corps (female), who was employed in the active military or naval service of the United States on or after April 6, 1917 and before November 12, 1918, provided, however, that if the person was serving in the United States military forces in Russia the ending date will be extended to April 1, 1920. (the provisions of Section 5, Public No. 304, 75th Congress, are not applicable to burial claims); (7) any enlisted man or officer of the Army, Navy, or Marine Corps in retirement status at the date of death if shown to have served honorably during the period of any war. Where death occurs on or after March 28, 1934, (except as provided in (B), below), and the other requirements of this paragraph have been met, an honorable discharge will not be required if the veteran was in receipt of pension, compensation, or

emergency officers retirement pay at the time of his death.

(B) *Persons not included.* Except as provided in Sec. 2.2696 (E) a discharged or rejected draftee; a member of the national guard who reported to camp in answer to the President's call, for World War service, but who when medically examined was not finally accepted for active military service; or an alien who does not come within the purview of Sec. 2.1001 (J), is not a "veteran of any war" within the meaning of that term as defined in paragraph (A) hereof, even though such person may have been in receipt of compensation or pension. (December 15, 1938) (48 Stat. 8, 9, 11, 525; 38 U. S. C. 366, 701, 704, 717, 718)

Death Occurring While Traveling Under Prior Authorization or in a Veterans' Administration Facility¹

Sec. 2.2696 (A) When a person while traveling under proper prior authorization and at the expense of the Veterans' Administration, either to or from a Veterans' Administration facility or regional office, for the purpose of examination, treatment or care, dies enroute, burial, funeral and transportation expenses will be provided in all respects as though death occurred in a Veterans' Administration facility. (December 15, 1938)

(B) When death occurs in a Veterans' Administration facility on or subsequent to March 20, 1933 and prior to January 19, 1934, there will be paid the actual cost (not exceed \$75) of burial and funeral and the body will be transported to the place of residence or to the nearest available National Cemetery or such other place as the next of kin may direct where the expense is not greater than the ascertained cost of transportation to place of residence or to the nearest available National Cemetery. When the ascertained cost of transportation to place directed by the next of kin exceeds the amount to be allowed as provided herein, the allowable amount shall be the amount payable to the place of residence or to the nearest available National Cemetery, whichever is the greater, which amount shall be available for reimbursement of expenses or partial payment of the expenses incurred for transportation. When death occurred on or after January 19, 1934, the amount to be allowed for the cost of burial and funeral will not exceed \$100. (See Sec. 8.09) (June 6, 1933)

(E) Reimbursement shall be allowed for burial, funeral and transportation expenses in the case of a discharged or rejected draftee; a member of the National Guard who reported to camp in answer to the President's call for World War service, but who, when medically examined, was not finally accepted for active military service; who dies in a Veterans' Administration facility, to which properly admitted under the provisions of Sec. 6.6047, in the same manner as for

a veteran dying in a Veterans Administration facility. See Sec. 2.2694 (B).

(1) Reimbursement shall be allowed for burial, funeral and transportation expenses in the case of a veteran honorably discharged from a period of service other than war service who dies in a Veterans Administration facility, to which properly admitted under the provisions of Sec. 6.6047, in the same manner as a veteran of a war dying in a Veterans Administration facility.

(2) Where death of a person occurs in a Veterans Administration facility and it is determined that such person was not properly entitled to hospital treatment, no reimbursement of burial, funeral and transportation expenses will be allowed. (See Sec. 8.06 and currently approved supply procedure, concerning disposition of bodies of persons not entitled to statutory burial allowance.)

(G) The term "Veterans Administration facility" shall include any hospital or institution to which proper authorization for admission has previously been granted by the Veterans Administration. (December 15, 1938.) (48 Stat. 11; 38 U. S. C. 717, 718)

Sec. 2.2698 *Evidence required in case of unclaimed bodies.* If the body of a deceased veteran is unclaimed, there being no relatives or friends of the deceased veteran located who will claim the body, the amount provided for the burial allowance will be available for burial of the deceased upon the submission of a properly completed Claim for Burial Expense, Form 530, accompanied by a comprehensive statement made by the manager or other official acting in his stead covering all relevant facts in the case and showing specifically to what extent efforts were made to locate relatives or friends. The burial allowance will not be awarded, however, in any instance where an award would result in an escheat of any part of the estate. (December 15, 1938) (48 Stat. 11; 49 Stat. 2031; 38 U. S. C. 508, 717, 718)

Assets

Sec. 2.2699 (A) Assets are not a factor for consideration in cases of veterans who died on or after June 29, 1936. (Public No. 844, 74th Congress, Act of June 29, 1936)

(B) In those cases where death occurred prior to June 29, 1936, and assets were a factor, the then existing law and regulations relating to assets will govern. (December 15, 1938)

Filing of Claim for Unauthorized Burial, Funeral and Transportation Expenses

Sec. 2.2700 (A) Claims for burial, funeral and transportation expenses must be submitted on Form 530, Claim for Burial Expenses, and should be executed by the person claiming payment. If the undertaker has not been paid, he is the proper person to assert claim; if the undertaker has been paid, the proper person to assert claim is the person whose personal funds were used to

make payment. If payment was made from funds of the veteran or other deceased person's estate the executor or administrator of such estate should assert claim or if no such officer was appointed then claim should be asserted by someone acting for the estate and distribution of the burial allowance should be made to the person or persons found to be entitled under the laws governing the distribution of intestate estates in the State of the decedent's personal domicile. See currently approved adjudication procedure. In addition to Form 530, claims for burial, funeral and transportation expenses should be supported by an itemized statement of account (preferably on the billhead of the undertaker), showing the cost of each service rendered and the name of the deceased veteran. Receipts must be furnished to cover charges for cremation, grave digging, grave space, firing squads, and for items not ordinarily carried in an undertaker's stock, or for services performed by persons other than the undertaker or his regular employees where these items and services are listed on an unpaid bill supporting a claim for the burial allowance and the other allowable items or services are not sufficient to cover the amount to be awarded. However, in any case when it is shown that a casket and complete funeral services were furnished at a stipulated price for the whole service, the amount of which is such that there is no doubt but that if required to be itemized such itemization would disclose allowable services aggregating \$100 or more, an itemized statement need not be required. All statements of accounts where paid must show by whom payment was made and be properly receipted in the firm name of the undertaking concern, and should show the full name and capacity of the individual receipting for the firm.

(B) *Proof of death.* Proof of the fact of death shall be established in accordance with the provisions of Sec. 2.1055.

(C) *Service record in claim for reimbursement of burial, funeral and transportation expenses.* The service record of the veteran on account of whose death claim is filed for reimbursement of burial, funeral and transportation expenses, will be established by an official report from the service department in which the veteran served or by other official Governmental records. Awards of burial allowance will not be made upon the basis of discharge certificates or copies thereof.

(D) *Waiver by distributees.* In any instance where the burial, funeral and transportation expenses of a deceased veteran have been paid from the funds of the veteran or some other deceased person's estate and the identity and right of all persons to participate have been established, the amount of the statutory burial allowance payable to heirs may be awarded to one heir upon the unconditional written consent of all

¹ 3 F. R. 794 DI.

other heirs. No payment will be authorized where there are no heirs and the money, if paid, would escheat. (December 15, 1938) (48 Stat. 11; 38 U. S. C. 717, 718)

Allowable Expenses of Burial, Funeral and Transportation

SEC. 2.2702 (A) (1) For the purpose of regulations governing the payment of burial, funeral and transportation expenses, the following items and articles will be considered as allowable: Embalming (Taharah in Jewish burials), shaving, washing, and dressing, casket or coffin, or in lieu thereof materials and labor used in the constructions of casket or coffin; steel or concrete vault (if a vault is used as a shipping case and also for burial, an allowance not exceeding \$25.00 may be applied thereon as part of transportation expenses in those cases where transportation charges are payable, exclusive of the \$100 burial allowance as provided in Sec. 2.2696, and any balance on such vault may be included in the burial allowance of \$75.00 or \$100 whichever applies), box not to exceed \$25.00, removal of box to cemetery, undertaker's fees for personal or professional services, chapel, hearse, limousines or other conveyances, rental vault, digging of grave including materials used in walling or lining grave, single grave space (except where burial is in a plot owned by a member of the family of the deceased) perpetual care if compulsory under deed to lot or site, grave marker or monument, lowering device, tent, grave equipment, blanket, slumber robe, veil, tahlith, burial clothing not to exceed \$50.00, chairs, cremation, candles, candelabra, crucifix, crepe, door badge, necessary fee for minister, music, or other religious services not to exceed \$15.00; necessary fees for watchers not to exceed \$10.00 for each or a total of \$20.00; necessary fees for pall bearers not to exceed \$2.00 each or a total of \$12.00 (fees for minister, music, watchers and pall bearers must be supported by receipts), fees for firing squads; permits and such other necessary burial and funeral expenses as are reasonable, not to exceed \$75.00 or \$100, whichever applies. The cost of flowers (other than door badge), flower car, obituary notices and state tax will not be allowed. In cases where transportation of remains is a proper charge against the Veterans Administration exclusive of the \$100 burial allowance as provided in Sec. 2.2696, and the transportation is accomplished by means other than by common carrier, the reasonable cost of such transportation shall be allowed as may be determined by employees authorized to make findings of fact and law in burial claims.

(2) *Items allowable as part of transportation.* In adjudicating claims where death of a person occurs in a Veterans Administration facility or while traveling under prior authorization of the Veterans Administration, either to or from a Veterans Administration facility or regional office, the following items will be consid-

ered as part of transportation expense, the cost of which will be allowed in addition to the statutory allowance of \$100; procuring permit for shipment, outside case for shipment, sealing outside case (tin), sealing outside case (galvanized iron), hearse to common carrier, one removal from common carrier either to home of decedent, or to the undertaking establishment or direct to the place of burial. In those cases where the remains are transported overland by means other than common carrier the items of transportation enumerated in this paragraph will not be allowed in addition to the statutory allowance and the removal charge. (See Sec. 2.2696 (C))

(B) *Payments on burial by State, lodge, society, etc.* Nothing in Sec. 2.2692 to 2.2706, shall be construed to cause the disallowance of a claim by the Veterans Administration because of any payment made on burial and funeral (including transportation) by a State, county, or other political subdivision, lodge, union, fraternal organization, society, or beneficial organization, insurance company, workmen's compensation commission, state industrial accident board, or employer, unless the amount of expenses incurred is absorbed by the amount actually paid for burial and funeral (including transportation) purposes by such agencies or organizations named: provided that no claim shall be reduced more than the difference between the entire amount of expenses incurred, and the amount paid by any or all of the foregoing agencies or organizations, provided further, that in no instance shall the amount allowed exceed \$100 or \$75 whichever applies.

(C) *Cost of services furnished by a Veterans' Administration facility to be deducted.* In the adjudication of claims filed under Sec. 2.2696, the cost of services (burial and funeral) furnished by a Veterans' Administration facility will be deducted from the burial allowance.

(D) *Reimbursement for cost of flags.* Subsequent to April 14, 1933, no reimbursement may be allowed for burial flags privately purchased by relatives, friends, or other parties. (December 15, 1938) (48 Stat. 11; 38 U. S. C. 717, 718)

[SEAL]

FRANK T. HINES,
Administrator.

[F. R. Doc. 38-3770; Filed, December 15, 1938;
11:58 a. m.]

REVISION OF REGULATIONS

HOSPITAL AND DOMICILIARY CARE

SEC. 6.6046 *Hospitalization for treatment.* (A) Hospital treatment may be provided by the Veterans' Administration for the following:

(1) Applicants entitled by previous military or naval service, in the forces of the United States, in war or in periods other than war-time, including officers or enlisted men of the regular

establishment on retirement or retainer pay.

(2) Applicants on the active or retired list of the United States Navy and members of the Fleet Reserve or Marine Corps Reserve, under authority of the Act of January 19, 1929 (Public No. 675), when hospitalization is requested for them by the Navy Department.

(3) Claimants and beneficiaries of the United States Employees Compensation Commission, including employees of the Forest Service, Department of Agriculture or other civil employees assigned to duty in CCC camps.

(4) Enrollees of and officers and enlisted men attached to the Civilian Conservation Corps.

(5) Employees of the Works Progress Administration, including the National Youth Administration, injured in performance of duty.

(6) Administrative employees of the Public Works Administration. Such persons are Government employees, potentially entitled to benefits under the Federal Employees Compensation Act. But employees on Public Works Administration projects are ordinarily performing work under private contractors, and thereby are not covered by the said Compensation Act, and not entitled to treatment by the Veterans' Administration.

(7) Pensioners of nations allied with the United States in the World War, upon authorization from accredited officials of the respective Governments.

(B) Applicants comprehended by (2) to (7) inclusive of paragraph (A) hereof may be supplied hospital treatment when beds are available in facilities under direct and exclusive jurisdiction of the Veterans' Administration after the needs of applicants under (1) are fully met. For governing conditions, including per diem rates, see currently approved medical procedure.

(C) Domiciliary (barracks) care may be provided applicants under (A) (1), except retired officers and retired enlisted men of the regular establishment. Domiciliary (barracks) care will not be provided for persons comprehended by (A) (2) to (7) inclusive.

(D) Retired emergency officers have potential entitlement under (A) (1) to hospital treatment at no per diem charge. (December 15, 1938) (45 Stat. 1090; 24 U. S. C. 31; 39 Stat. 742; 5 U. S. C. 751; 48 Stat. 22; 16 U. S. C. 585; 49 Stat. 117; 43 Stat. 621; 38 U. S. C. 488)

SEC. 6.6047 *Eligibility of ex-members of the military or naval forces for hospital or domiciliary care.* Within the limits of Veterans' Administration facilities, hospital or domiciliary care may be furnished the following applicants, in the specified order of preference:

(B) Hospital treatment for: (1) Persons honorably discharged from the United States Army, Navy, Marine Corps or Coast Guard for disability incurred in line of duty, or who are in receipt of

* 1 F. R. 426.

pension for service-connected disability, when suffering from injuries or diseases incurred or aggravated in line of duty in the active service, and for which they are in need of hospital treatment. Cadets and midshipmen discharged from the academies at West Point or Annapolis who meet these requirements as to character of discharge or pension are eligible under this subparagraph, regardless of the requirement as to active military or naval service.

(2) For applicants not in receipt of pension for service-connected disability, the official records of the Army or Navy, respectively, relative to findings of line of duty for its purposes, will be accepted in determining eligibility for hospital treatment under this subparagraph (B); except that where the official records of the Army or Navy show a finding of disability not incurred in line of duty and evidence is submitted to the Veterans' Administration which permits of a different finding, the decision of the Army or Navy will not be binding upon the Veterans' Administration, which will be free to make its own determination of line of duty in accordance upon the evidence so submitted. It will be incumbent upon the applicant to present such controverting evidence and, until he so acts and a determination favorable to him is made by the Veterans' Administration, the finding of the Army or Navy will control and hospitalization will not be authorized. Such controverting evidence, when received from an applicant, will be referred to the adjudicating agency which would have jurisdiction if the applicant were filing claim for pension or disability compensation, and the determination of such agency as to line of duty, which is promptly to be communicated to the manager of the facility receiving the application for hospitalization, will govern his disapproval or approval of admission, other eligibility requirements having been met. Where the official records of the Army or Navy show that the disability on account of which a veteran was discharged from his peace-time service was incurred in line of duty, such showing will be accepted for the purpose of determining his eligibility for hospitalization notwithstanding the fact that the Veterans' Administration has made a determination in connection with a claim for monetary benefits that the disability was incurred not in line of duty. See also Public No. 648, 75th Congress, defining line of duty, whether on active duty or authorized leave, relative to applicants whose only military or naval service was in a period other than war-time.

If the applicant's only service was in a period other than war-time, and his last discharge was not honorable, hospital treatment will be furnished only for a disease or injury incurred in line of duty in a period of service for which he was honorably discharged for disability incurred in line of duty.

(3) When the applicant is in receipt of a pension for a service-connected dis-

ability, inquiry will not be made as to the character of discharge from service. The same waiver as to character of discharge will be applicable to paragraph (D), following.

(4) In those exceptional cases where the official records of the Army or Navy show honorable discharge because of expiration of period of enlistment or any other reason save disability, but also show a disability incurred in line of duty during the said enlistment; and the disability so recorded is considered in medical judgment to be or to have been of such character, duration, and degree as to have justified a discharge for disability had the period of enlistment not expired or other reason for discharge been given, the medical director, upon consideration of a clear, full statement of the circumstances submitted to him, is authorized to approve admission of the applicant for hospital treatment, provided other eligibility requirements are met. A typical case of this kind would be one where the applicant was under treatment for the said disability recorded during his service at the time discharge was given for reason other than disability. (December 15, 1938)

(E) Hospital or domiciliary care for: Veterans who served, regardless of length of service, during a period of war as defined in paragraphs I and IV of Sec. 8.10, as amended, or in any war prior to the Spanish-American War; (1) who were not dishonorably discharged from their last period of war service; (2) who swear that they are unable to defray the expenses of hospitalization or domiciliary care, including the expense of transportation to and from a Veterans Administration facility; (3) and who are suffering from a disability, disease or defect which, being susceptible of cure or decided improvement, indicates need for hospital care, or which, being essentially chronic in type and not susceptible of cure, or decided improvement by hospital care, is producing disablement of such degree and of such probable persistency as will incapacitate from earning a living for a prospective period, and thereby indicates need for domiciliary care. The provisions of section 5, Public No. 304, 75th Congress, that "re-enlistment after November 12, 1918, and before July 2, 1921, where there was prior service between April 6, 1917, and November 11, 1918, shall be considered as World War service," etc., will have no application to Sec. 6.6047.

(F) Hospital treatment (only in facilities under direct and exclusive jurisdiction of the Veterans Administration) for: (1) Retired officers and enlisted men of the United States Army, Navy, Marine Corps or Coast Guard (regular establishment) who served in a period of war as defined in paragraphs I and IV of Sec. 8.10, as amended, or in any war prior to the Spanish-American War; and who are suffering from a disease or injury for which hospital treatment is needed. (December 15, 1938) (48 Stat. 9, 285, 525;

49 Stat. 729, 730; 38 U. S. C. 612, 621, 622, 662, 706, 707, 730 and 36 U. S. C. 122)

Sec. 6.6048, paragraph (3) canceled December 15, 1938.

Sec. 6.6049 canceled December 15, 1938.

Sec. 6.6050 *Utilization of facilities other than those under direct and exclusive jurisdiction of the Veterans' Administration.* For the purposes of Sec. 8.10, paragraph XIX, defining "Veterans' Administration facilities", the following provisions will govern in authorizing admissions to facilities other than those under the direct and exclusive jurisdiction of the Veterans' Administration:

(B) *Private facilities* will not be used for hospitalization of beneficiaries except when facilities under direct and exclusive jurisdiction of the Veterans' Administration or other Government facilities are not feasibly available, or when the physical or mental condition of beneficiaries will not allow of their transfer from a private institution to a Government facility. Except for treatment of a medical emergency arising from a service-connected disorder, hospitalization of a male beneficiary will not be authorized in any private, municipal or State institution, whether under contract or not under contract. In such medically emergent cases, authorization for admission to such private, municipal or State hospital will be given subject to the conditions stipulated in (1) following; and when so given will be authority for the payment of vouchers covering the cost of such hospitalization:

(1) The chief medical officer or his designate, of the regional office or facility with regional office activities having jurisdiction of the territory in which the private, municipal or State hospital, contract or non-contract, is located, when informed of the medical emergency in time to authorize the admission, or when requested to issue an authorization to cover such admission after the patient has entered such hospital, will at once put the superintendent thereof on notice as follows: That all services or supplies furnished the beneficiary must be charged and may be paid for only at rates in accordance with the schedule of fees for medical treatment, Veterans' Administration, if the hospital concerned is not under contract, and at rates in accordance with the terms of the contract, if the hospital concerned is one under contract; that all items in the voucher covering such services or supplies will be subject to determination, by the chief medical officer or his designate, as to reasonable necessity therefor; and that, in conformity with the principles applying to utilization of facilities other than those under direct and exclusive jurisdiction of the Veterans' Administration, payment cannot be made for any such services or supplies that had been furnished prior to the date that such hos-

pitalization had been authorized by the Veterans' Administration. (See also Sec. 6.6140 to 6.6148 inclusive) (December 15, 1938)

(J) An applicant whose entitlement to hospital treatment or observation has been established, either for a condition service-connected or not service-connected, whose admission to a Government facility has been approved, who has been supplied transportation, but who, while enroute to or from the designated facility, develops an unforeseen and unavoidable medical emergency requiring admission to a private hospital or treatment by a private physician, will be entitled to reimbursement for necessary extra transportation, services and supplies furnished in such circumstances, at rates in accordance with the schedule of fees for medical treatment, Veterans Administration. (December 15, 1938) (48 Stat. 9, 285, 525; 49 Stat. 729, 730; 38 U. S. C. 612, 621, 622, 662, 706, 707, 730 and 36 U. S. C. 122)

[SEAL]

FRANK T. HINES,
Administrator.

[F. R. Doc. 38-3769; Filed, December 15, 1938; 11:58 a. m.]

TITLE 43—PUBLIC LANDS

OFFICE OF SECRETARY OF INTERIOR, DIVISION OF GRAZING

ARIZONA GRAZING DISTRICT No. 4

MODIFICATION

DECEMBER 9, 1938.

Under and pursuant to the provisions of the act of June 23, 1934 (48 Stat. 1269), as amended by the act of June 26, 1936 (49 Stat. 1976), and subject to the limitations and conditions therein contained, the Departmental order of February 14, 1936, establishing Arizona Grazing District No. 4, is hereby modified to include within its exterior boundaries the following-described land:

ARIZONA

Gila and Salt River Meridian

T. 14 S., R. 27 E., all.

The Federal Range Code, revised to August 31, 1938, shall be effective as to the lands embraced within this addition from and after the date of the publication of this order in the FEDERAL REGISTER.

HARRY SLATTERY,

Acting Secretary of the Interior.

[F. R. Doc. 38-3761; Filed, December 15, 1938; 10:01 a. m.]

OREGON GRAZING DISTRICT No. 5

MODIFICATION

NOVEMBER 19, 1938.

Under and pursuant to the provisions of the act of June 28, 1934 (48 Stat.

1269), as amended by the act of June 26, 1936 (49 Stat. 1976), the Departmental order of October 21, 1935, establishing Oregon Grazing District No. 5, is hereby revoked as far as it affects the following-described lands, such revocation to be effective upon the inclusion of the lands within the Deschutes National Forest:

OREGON

Willamette Meridian

- T. 14 S., R. 10 E.,
secs. 1 to 24 and 28 to 34 inclusive;
T. 15 S., R. 10 E.,
secs. 3 to 10, 15 to 23, and 26 to 35
inclusive;
T. 16 S., R. 10 E.,
all;
T. 17 S., R. 10 E.,
secs. 1 to 6 and 8 to 15 inclusive, E½
sec. 16, secs. 22 to 26 inclusive, secs.
35 and 36;
T. 18 S., R. 10 E.,
secs. 1, 2, 3, 10 to 14 inclusive, 24, 25,
and 36;
T. 16 S., R. 11 E.,
W½ secs. 30 and 31;
T. 17 S., R. 11 E.,
S½ sec. 4, NW¼, S½ sec. 5, secs. 6 to
9 inclusive, W½, W½SE¼ sec. 15, secs.
16 to 21 inclusive, W½E½, W½ sec.
22, secs. 27 to 34 inclusive;
T. 18 S., R. 11 E.,
secs. 3 to 10 inclusive, W½E½, W½
sec. 11, secs. 14 to 23 and 26 to 35
inclusive.

HARRY SLATTERY,

Acting Secretary of the Interior.

[F. R. Doc. 38-3762; Filed, December 15, 1938; 10:01 a. m.]

GENERAL LAND OFFICE

UTE INDIAN LANDS, COLORADO

ORDER OF REVOCATION

DECEMBER 8, 1938.

Section 6 of the act of June 28, 1938, Pub. No. 754, 75th Congress, 3rd Session, provides in part,

"... anything in any other Acts of Congress to the contrary notwithstanding, no lands in Colorado north of and including range [township] 35 formerly owned or claimed by the Ute Indians or any band thereof shall be restored to tribal ownership under the provisions of section 3 of the Act of June 18, 1934 (48 Stat. 984), and said lands to the extent that they have not been disposed of by the United States are hereby declared to be the absolute property of the United States:

The second proviso of section 6, *supra*, provides:

That any orders restoring or attempting to restore to tribal ownership any portion of the lands in Colorado north of range [township] 35 are hereby rescinded and annulled.

Departmental order of restoration to tribal ownership, Confederate Bands of the Ute Tribe of Indians, Colorado, dated November 13, 1937, involved approximately 8,500 acres of land, said to

2 F. R. 2563 (2985 DI).

be primarily valuable for minerals. These lands are situated within the exterior boundaries of the area specifically declared by section 6 of the act of 1938 to be the absolute property of the United States. Obviously, therefore, the second proviso of section 6 rescinded and annulled the order of November 13, 1937, and thereby declared the lands therein described to be the absolute property of the United States.

Accordingly, so much of the Departmental order of September 19, 1934, 54 L. D. 559, as temporarily withdrew any of the lands made the subject of the above-quoted provisions of the act of 1938, or any mineral deposits within the exterior boundaries of the areas made the subject of the above-quoted provisions of that act, is hereby revoked, this revocation to become effective January 31, 1939, at 9:00 a. m., when all lands and mineral deposits released by this order from the temporary withdrawal of September 19, 1934, will become subject to such use and disposition as is provided by the laws applicable thereto. In this connection, reference is made to Executive Order No. 6910 of November 26, 1934, as amended; the act of June 28, 1934, 48 Stat. 1269, as amended by the act of June 26, 1936, 49 Stat. 1976, commonly called the Taylor Grazing Act, under which grazing act the land thus released will not be susceptible to entry through the homestead or any of the non-mineral land laws until classified as suitable for, and made subject to, such entry.

Applications may be filed prior to January 31, 1939, and any applications received before that date, together with those filed at 9:00 a. m. on January 31, 1939, will be treated as simultaneously filed, and the successful applicant determined by a public drawing in the manner provided under paragraph 4 of the instructions of May 22, 1914, 43 L. D. 254.

All applications received after 9:00 a. m. on January 31, 1939, will be disposed of in the order of their filing.

Applications for lands north of the township line between Townships 41 and 42 North, N. M. P. M., should be filed in the district land office at Denver, and those for lands south of that line, in the district land office at Pueblo, Colorado.

The first proviso of section 6, *supra*, provides:

"That there is hereby added to the existing Southern Ute Indian Reservation in tribal ownership . . . the vacant, undisposed of ceded lands within the following described boundaries: . . .

The description is that contained in Departmental Order of July 17, 1937. These lands are unaffected by this order of revocation.

HAROLD L. ICKES,
Secretary of the Interior.

[F. R. Doc. 38-3764; Filed, December 15, 1938; 10:02 a. m.]

Notices

FEDERAL POWER COMMISSION.

[Docket No. DI-145]

IN THE MATTER OF COPPER DISTRICT POWER COMPANY

ORDER POSTPONING HEARING

DECEMBER 13, 1938.

Commissioners: Clyde L. Seavey, Acting Chairman; Claude L. Draper, Basil Manly, John W. Scott.

It appearing to the Commission that: Copper District Power Company has requested postponement of the public hearing in the above cause now assigned to be held on December 19, 1938, in accordance with the order of the Commission adopted on November 29, 1938;¹ and, for good reason shown;

The Commission orders that:

The public hearing in the above cause now set for December 19, 1938, be and the same is hereby postponed to January 6, 1939, at the same time and place.

By the Commission.

[SEAL] LEON M. FUQUAY,
Secretary.

[F. R. Doc. 38-3760; Filed, December 15, 1938;
10:01 a. m.]

INTERSTATE COMMERCE COMMISSION.

[Ex Parte No. MC 3]

ORDER IN THE MATTER OF ESTABLISHING REASONABLE REQUIREMENTS TO PROMOTE SAFETY OF OPERATION OF MOTOR VEHICLES USED IN TRANSPORTING PROPERTY BY PRIVATE CARRIERS

HEARING POSTPONED

At a session of the Interstate Commerce Commission, Division 5, held at its office in Washington, D. C., on the 8th day of December, A. D. 1938.

It appearing, That by order dated October 31, 1938,² the above-entitled proceeding was set for hearing before Examiner R. W. Snow, at the times and places set forth in said order;

It further appearing, That the National Council of Private Motor Truck Owners has filed a petition requesting that the

¹ 3 F. R. 2842 DI.
² 3 F. R. 2630 DI.

hearings in the above-entitled case be postponed; and good cause therefor appearing:

It is ordered, That that part of said order of October 31st which fixes the times and places of hearings be, and it is hereby, vacated, and that this proceeding be, and it is hereby, set for hearing before the Examiner at the following times and places:

February 20, 1939, 10 A. M. S. T. at the offices of the Interstate Commerce Commission, in Washington, D. C.

February 23, 1939, 10 A. M. S. T. at the Hotel New Yorker, New York, N. Y.

February 27, 1939, 10 A. M. S. T. at the Hotel Sherman, Chicago, Ill.

March 2, 1939, 10 A. M. S. T. at the Hotel Nicollet, Minneapolis, Minn.

March 6, 1939, 10 A. M. S. T. at the Hotel Spokane, Spokane, Wash.

March 8, 1939, 10 A. M. S. T. at the Hotel Multnomah, Portland, Ore.

March 13, 1939, 10 A. M. S. T. at the offices of the California Railroad Commission, Los Angeles, Calif.

March 17, 1939, 10 A. M. S. T. at the Hotel Fontenelle, Omaha, Nebr.

March 20, 1939, 10 A. M. S. T. at the Hotel Peabody, Memphis, Tenn.

By the Commission, division 5.

[SEAL] W. P. BARTEL,
Secretary.

[F. R. Doc. 38-3765; Filed, December 15, 1938;
10:38 a. m.]

SECURITIES AND EXCHANGE COMMISSION.

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission held at its office in the City of Washington, D. C., on the 15th day of December, A. D. 1938.

[File No. 32-126]

IN THE MATTER OF ALABAMA POWER COMPANY

NOTICE OF AND ORDER FOR HEARING

Application pursuant to section 6 (b) of the Public Utility Holding Company Act of 1935, having been duly filed with this Commission by the above-named party;

It is ordered, That a hearing on such matter be held on January 6, 1939, at 10:00 o'clock in the forenoon of that day, at the Securities and Exchange Building,

1778 Pennsylvania Avenue, NW., Washington, D. C. On such day the hearing-room clerk in room 1102 will advise as to the room where such hearing will be held. At such hearing, if in respect of any declaration, cause shall be shown why such declaration shall become effective.

It is further ordered, That Robert P. Reeder or any other officer or officers of the Commission designated by it for that purpose shall preside at the hearings in such matter. The officer so designated to preside at any such hearing is hereby authorized to exercise all powers granted to the Commission under section 18 (c) of said Act and to a trial examiner under the Commission's Rules of Practice to continue or postpone said hearing from time to time.

Notice of such hearing is hereby given to such declarant or applicant and to any other person whose participation in such proceeding may be in the public interest or for the protection of investors or consumers. It is requested that any person desiring to be heard or to be admitted as a party to such proceeding shall file a notice to that effect with the Commission on or before January 3, 1939.

The matter concerned herewith is in regard to an application by Alabama Power Company, a subsidiary of The Commonwealth & Southern Corporation, a registered holding company, for the exemption from the provisions of Section 6 (a) of the Act of the issue and sale of \$1,500,000 principal amount of 2.73% Collateral Notes and \$2,000,000 principal amount of First and Refunding Mortgage Bonds, 4½% Series, due 1967. Each note is to be secured by collateral consisting of the applicant's aforesaid bonds. The applicant proposes to issue its notes to the United States of America and to deliver the same to the Rural Electrification Administration for the purpose of obtaining funds to be used to finance the construction of electric lines or systems and facilities in rural areas in the State of Alabama. Each of the Collateral Notes is to be dated as of the approximate date the advance represented thereby is made, and is to mature in semiannual installments over a period of twenty years from date.

By the Commission.

[SEAL] FRANCIS P. BRASSOR,
Secretary.

[F. R. Doc. 38-3766; Filed, December 15, 1938;
11:36 a. m.]